IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

APPEAL FROM ORDER NO.560 OF 2005
WITH
CIVIL APPLICATION NO. 630 OF 2005

Harshabad Co-operative Hsg.Society Ltd. ...Appellant.
Vs.
Suresh Mohanlal Garodia & Ors. ...Respondents.

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Mr. Nitin Trivedi for the Appellant.
Mr.Vinit Naik for Respondent No.1.
Mr. Shailesh More, AGP for Respondent Nos.2 and 3.
Mr. K. G. Modi, Secretary of the Society present.

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CORAM : DR. D.Y. CHANDRACHUD, J.

November 19, 2005.

P.C.:

This appeal has been pending admission since May 2005. On 5th May 2005, one Kishor I Mehta appeared in person claiming to represent the Appellant. His appearance was objected to on the ground that he is not a member of the Co-operative Society and was only a holder of a Power of Attorney. Hence, it was submitted that the aforesaid Kishor I. Mehta could not appear before the Court without the leave of the Court. This Court accordingly granted time until 17th May 2005 on the request of the

Chairman of the Society who was present in the Court. An ad-interim order had been passed on 28th April 2005 and this order was directed to operate in the meantime. On 17th May 2005, on a Civil Application being moved, Kishor I. Mehta was permitted to argue the matter on behalf of the Society since the General Body had resolved to permit him to do so. The appeal was thereafter, adjourned from time to time between May and October 2005. At some stage, the parties were desirous of settling the matter. On 27th October 2005, the party in person sought time to engage an Advocate. Accordingly, the matter was directed to stand over to 16th November 2005 and there was an express direction that no further adjournment would be granted. On 16th November 2005, the Appellant was represented by an Advocate,Mr. Nitin Trivedi. The Learned Advocate prayed for an adjournment. Parties were aware of the specific directions issued previously by this Court on 27th October 2005 that no adjournment would be granted after 16th November 2005. However, as and by way of a final indulgence, time was granted until 19th November 2005 and the request for a longer adjournment was refused. Today when the matter was called out, the Advocate appearing on behalf of the Appellant states that there is no unanimity between the members of the

Society as to whether he should be engaged and, therefore, he has no instructions. The Secretary of the Society is present before the Court. It is evident that the order of status quo which is operating since 28th April 2005 is sought to be continued and there is no earnest attempt on the part of the Appellant to pursue the proceedings and argue the matter on merits. The Court is hence constrained to dismiss the appeal for non-prosecution.

In view of the disposal of the appeal, the Civil Application is rendered infructuous and is accordingly disposed of.

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